

EXHIBIT 69

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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IN RE RIPPLE LABS INC. LITIGATION

THIS DOCUMENT RELATES TO:

Case No.

4 : 18-cv-06753-PJH

ALL ACTIONS

1

VIDEO-RECORDED DEPOSITION OF CAMERON AZARI

VERITEXT VIRTUAL

FRIDAY, JANUARY 20, 2023

23 | Reported by:

Anrae Wimberley, CSR No. 7778

Job No. 5655292

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Transcript of video-recorded deposition
of CAMERON AZARI, taken via Zoom videoconference,
beginning at 10:03 a.m. PST and ending at 12:29 p.m.
PST on Friday, January 20, 2023, before Anrae
Wimberley, Certified Shorthand Reporter No. 7778.

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23 VERITEXT LEGAL SOLUTIONS

24 --oo--

25

1 5 percent. In terms of all the projects that I have 2 been retained to come in, that's probably a little 3 higher, maybe 10, 10 percent.	10:13:50	1 I mean, we do consumer product cases, auto cases, 2 over-the-counter products, technology products. So 3 in that respect, I wanted to take a look at other 4 cryptocurrency settlements just to confirm that 5 there was nothing to be concerned about them.	10:16:25
4 Q. So it's fair to say that the vast majority 5 of the time, you don't offer a declaration in 6 support of class certification?	10:14:02	6 Q. Does giving notice in a cryptocurrency 7 case pose different challenges for you than in a 8 consumer products case, for example?	10:16:41
7 A. Yeah, I think that's probably right. For 8 all the projects -- class action projects that we're 9 retained on, the majority of the time, I'm not -- 10 that's right, I'm not retained to provide any sort 11 of opinion on class certification by either party.	10:14:17	9 A. I don't think so. I mean, like I said, 10 there's such a wide spectrum of different kinds of 11 projects. And even within similar -- what people 12 would think would be similar cases, there's a 13 spectrum of ways that we would give notice. It's a 14 unique plan every time, and as long as the class is 15 defined with objective criteria, it's no different.	10:17:21
12 Q. <u>What did you do to prepare for today's</u> <u>deposition?</u>		16 I mean, we look for available data and 17 then we -- if we have to design a media plan, we 18 design a media plan. It's really the same overall 19 approach that we would apply to any other notice -- 20 notice for any other project.	10:17:36
14 A. <u>I read over my declaration several times.</u>	10:14:33	21 Q. Aside from the Audet declaration that you 22 offered and the declaration by one of your 23 colleagues in the Tezos case, did you review any 24 other declarations that either you or Epiq has 25 offered in preparation for your deposition?	10:17:53
15 <u>I read over a little bit of a couple of other</u> <u>declarations on cryptocurrency/securities</u>	10:14:54	21 Page 14	10:18:13
16 <u>settlements that Epiq has administered. I took a</u> <u>look back at some of the documents that were filed</u>		25 Page 16	
17 <u>in the case, the complaint, the motion for class</u> <u>cert.</u>	10:15:12		
21 Q. <u>What declarations relating to Epiq's</u> <u>security settlements did you review in preparation</u> <u>for your deposition?</u>			
24 A. <u>I don't have them in front of me, so I'm</u> <u>going to get some of the names wrong, but the Audet</u>	10:15:12		
25 <u>matter I filed a declaration I believe -- I'm going</u> <u>to get these mixed up -- I believe the class</u> <u>certification stage there. I took a look at that</u> <u>declaration.</u>	10:15:14		
5 <u>And then Epiq, not me, filed the</u> <u>declaration in the Tezos security settlements, one</u> <u>of our project managers filed, and I took a look at</u> <u>that.</u>	10:15:26		
9 Q. <u>Okay. And why did you chose to look at</u> <u>the Audet and the Tezos declarations in preparation?</u>	10:15:37		
11 A. <u>Because that was the one that -- because</u> <u>that's one of the matters that we -- it's a similar</u> <u>matter in terms it's a</u> <u>cryptocurrency/securities-related settlement, and I</u> <u>filed the declaration on it. So I thought I'd</u> <u>better take a look at it.</u>	10:15:52		
17 <u>And Tezos is also a cryptocurrency</u> <u>settlement, and I just thought it was good practice</u> <u>to take a look at that.</u>			
20 Q. Do you think that cryptocurrency cases are 21 unique from the other types of cases in which you 22 typically provide notice?	10:16:06		
23 A. Unique? I mean, all our cases are unique 24 in certain respects. I mean, there's some cases 25 that have a lot of similarities to one another, but	10:16:21		
Page 15			

1 that allowed you to make that opinion. 10:56:03	1 sit here today, you don't -- you are not able to 10:58:31
2 So when you gave that opinion, I want to 2 identify who would fit the definition of XRP	3 purchaser as stated in the class definition?
3 know who you were contemplating as XRP purchasers. 4 A. Yeah, no, I don't think anybody in any	5 case would be qualified to do that at this stage. 10:58:57
4 A. Well, what I was contemplating is people 6 Q. All right. The next part of the class	7 definition is -- and I'm talking about the federal
5 who fit the definition of the class. 10:56:18 8 class definition in paragraph 24(a) of your	9 report -- those people who still retain XRP.
9 it was a judgment or relying on the parties if it 10 were a settlement to help with some of the nuances 10:56:34 11 of who might be in the class.	10 Do you see that? 10:59:22
12 It's not unusual for there to be gray on 13 their behalf. So I would rely on that, and if that 14 was an audience that need to be targeted, what we 15 needed to do to target that audience. 10:56:50	11 A. I do.
16 Q. Okay. So when you're saying, "We will be 17 able to identify and provide reasonable notice to 18 the Class Members," you need to rely on someone else 19 to tell you who those class members are; is that 20 right? 10:57:04	12 Q. <u>So they purchased and retained it.</u>
21 A. Well, I didn't quite say that, but -- 22 MR. ELKHUNOVICH: Objection, vague. Objection, 23 misstates prior testimony, form.	13 <u>And how are you able to identify which</u>
24 Go ahead.	14 <u>class members still retain XRP?</u>
25 THE WITNESS: Okay. I didn't -- I might need 10:57:12	15 A. <u>Well, we wouldn't at the notice stage.</u> 10:59:31
Page 42	16 <u>The purpose of the notice stage would be to cast a</u>
	17 <u>broad net and then it would be up to the individual</u>
	18 <u>class member if they were wanting to file a claim,</u>
	19 <u>depending on how this litigation ends up, to provide</u>
	20 <u>whatever proof is necessary to show that they</u> 10:59:44
	21 <u>retained it.</u>
	22 Q. <u>So does your plan contemplate that you</u>
	23 <u>would send a notice to all XRP purchasers?</u>
	24 A. <u>I mean, it depends on the data, but that's</u>
	25 <u>probably right.</u> 11:00:07
	Page 44
1 you to ask the question again. Sorry. 10:57:14	1 <u>If data was available to show us precisely</u> 11:00:09
2 MS. NERO: Sure. Madam Reporter, could you 3 repeat the question, please?	2 <u>who still retained XRP or sold it at a loss, then</u>
4 (Record read by reporter as follows:	3 <u>yes, I suppose we would cull the data down just to</u>
5 "Question: So when you're saying, 'We 10:57:20	4 <u>send it to those specific individuals.</u>
6 will be able to identify and provide 7 reasonable notice to the Class Members,'	5 <u>But that would be -- in any case, that's</u> 11:00:25
8 you need to rely on someone else to tell 9 you who those class members are; is that 10 right?") 10:57:20	6 <u>going to be unlikely. There's almost always a proof</u>
11 THE WITNESS: The answer is basically, yes. I 12 don't determine who the class is. That's not my 13 job. My job is to take the objective class 14 definition as ordered by the Court and -- but it's 15 not unusual at all for there to be some gray on 16 that. 10:58:04	7 <u>element that people can prove that they're an actual</u>
17 I mean, I don't have the data now, if 18 there is data available, and I'm always relying on 19 information to help us in putting together our 20 notice plan. 10:58:20	8 <u>class member that would be entitled to relief, if</u>
21 So if there was a gray area on what is a 22 purchaser or not, I would take all that information 23 and use it.	9 <u>any relief existed.</u>
24 BY MS. NERO:	10 <u>(Reporter seeks clarification.)</u> 11:00:46
25 Q. So would it be fair to say that, as you 10:58:29	11 Q. <u>So is that the same with regards to who</u>
Page 43	12 <u>sold at a loss, your assumption would be you would</u>
	13 <u>send it to all XRP class members through some sort</u>
	14 <u>of a claim form and they would send it some proof</u>
	15 <u>that they're entitled to be a part of the class?</u> 11:01:01
	16 A. Yes. I mean, you know, we do dozens and
	17 dozens of securities settlements and that's a
	18 typical requirement, that the class member has to
	19 provide information that shows the purchase date and
	20 sold date, and the claims process is doing the math 11:01:12
	21 to confirm that they suffered a loss.
	22 Q. Do you know what "suffered a loss" means?
	23 A. I don't.
	24 MS. NERO: We've been going about an hour. Why
	25 don't we take a short break. 11:01:34
	Page 45

12 (Pages 42 - 45)

1 A. I mean, maybe, if that information is 2 available. But it's not -- it's not -- I mean, in 3 securities class actions, regular -- but whatever, 4 any class action, but also, in security class 5 actions where oftentimes one of the criteria is 6 whether someone suffered a loss, that's not -- 7 doesn't have anything to do with the notice piece. 8 We're looking to ask a little bit of a 9 broad -- a reasonably broad net to people who 10 purchased whatever the security or item or whatever 11 it was, and then it's part of a claims process to 12 determine the things like suffered a loss or 13 whatever other criteria might be included. 14 Q. When you say that it is your opinion that 15 the classes are readily identifiable, does that 16 include differentiating the people who suffered a 17 loss from those who did not? 18 A. No. 19 Q. We've been speaking mainly about the 20 federal securities class as stated in 21 paragraph 24(a) of your report. 22 I want to speak briefly about the 23 California state securities claims class as listed 24 in paragraph 24(b) of your report. 25 Now, how does this class differ from the	11:18:04 11:18:20 11:18:34 11:19:27 11:19:46 11:20:01 Page 50	1 Q. As you sit here today, do you know which 2 of the defendants sold XRP? 3 A. No. 4 Q. Do you know where they sold it? 5 A. No, not really. 6 Q. What do you mean, "not really"? 7 A. I know anecdotally and generally that at 8 least some of it was sold through these exchanges, 9 but I don't have any particular knowledge or 10 expertise on how much or what the exchanges are or 11 where else. 12 Q. Do you know whether those exchanges are in 13 the United States or outside of the United States? 14 A. I don't know. 15 Q. What about persons or entities selling XRP 16 on defendants' behalf, do you know who that is? 17 A. I don't. 18 Q. Do you know how many persons or entities 19 did this? 20 A. I don't. 21 Q. Do you know where they sold XRP on 22 defendants' behalf? 23 A. I don't know. 24 Q. Do you know who they sold to? 25 A. I don't know that.	11:22:09 11:22:18 11:22:38 11:22:55 11:23:06 11:23:21 Page 52
1 federal securities claims class? 2 A. In terms of the definition that I'm 3 looking at in my declaration, it's really in the 4 first sentence with the addition of "from Defendants 5 and/or from any person or entity selling XRP on 6 Defendants' behalf." 7 And then the rest is the same in terms of 8 the date and the retained and/or sold at a loss. 9 Q. Okay. And how will you identify which 10 purchasers of XRP purchased from defendants? 11 A. For notice, we wouldn't. We wouldn't do 12 that. We would be casting the same -- the notice 13 plan would be the same, honestly. If the California 14 state securities claims class wasn't there, if it 15 was just the first class, at least my understanding, 16 at this point, the notice would be identical if that 17 was in there or not. 18 And if there was any particular remedy 19 that was available to the California state 20 securities claims class that was different or in 21 addition to the federal securities claims class, 22 then that would be something, if it was different, 23 if there was a different factor or behavior or 24 status, that would be something that would be dealt 25 with in a claims process.	11:20:04 11:20:18 11:20:37 11:20:58 11:21:16 11:21:31 Page 51	1 Q. <u>How will you determine who bought from</u> <u>defendants during the claims process?</u> 3 A. <u>Again, it's going to depend on whether</u> <u>that's even a factor in the claims process.</u> 5 <u>If it is a factor, we would rely on the</u> <u>Court, or if the parties settled, on defining for us</u> <u>who the defendants are. And then on a claim form,</u> <u>just for example, a claimant could either provide</u> <u>documentation if that was required, screen shots,</u> 10 <u>you know, whatever, some documentation of purchase,</u> 11 <u>or they could sign an affidavit saying I bought from</u> 12 <u>defendant X.</u> 13 Those are just options. But, again, we 14 would rely on the Court or settling parties to 15 define for us what requirements would be necessary. 16 Q. You haven't thought about how you would do 17 that as part of this report that you've offered in 18 support of class certification? 19 A. In terms of how specifically this specific 20 claims process would look, no. Just generally. 21 Q. And is that the same for how you would 22 determine whether or not someone sold XRP at a loss? 23 A. Yes, the -- 24 (Reporter seeks clarification.) 25 A. Yes, the same.	11:23:39 11:23:52 11:24:22 11:24:37 11:25:05 11:25:32 Page 53

1 that's something that we do.	11:39:24	1 <u>here, the process described above will be used to</u> 11:42:17
2 Q. And what sort of data would you need in		2 <u>achieve a reach within that range.</u>
3 order to do that?		3 <u>What is the basis for saying that you can</u>
4 A. Usually, it would be information provided	11:39:35	4 <u>reach 70 to 95 percent of a class that you don't</u>
5 by the claimants evidencing their purchase and their		5 <u>know the size of?</u> 11:42:37
6 purchase date and their -- and their sale and their		6 <u>A. Yeah, that's a good question, and it comes</u>
7 sale date or dates.		7 <u>up in probably the majority of the settlement notice</u>
8 Q. Will you use a first-in/first-out		8 <u>plans that we put together.</u>
9 methodology?		9 <u>There are some notice plans, some</u>
10 A. I can't answer that.	11:39:57	10 <u>situations where we have a very clear understanding</u> 11:42:50
11 Q. How will you account for the different		11 <u>of the denominator, right, the actual number of</u>
12 prices in purchase and sales of XRP through		12 <u>class members. But in many cases, consumer product</u>
13 different currency?		13 <u>cases, we don't have a clear idea.</u>
14 A. Again, that would be we would apply	11:40:14	14 <u>To the extent that information is</u>
15 whatever methodology that either the Court ordered		15 <u>available either from the defendant or publicly</u> 11:43:09
16 or the parties agreed to. And then just if we had		16 <u>available resources, we may come up with a rough</u>
17 to do it, then we would do the math that was		17 <u>estimate of the denominator, the actual size of the</u>
18 necessary.		18 <u>class.</u>
19 Q. I guess what I'm trying to figure out is		19 <u>If we did that, then we would take the</u>
20 are you coming up with a methodology here or you're	11:40:28	20 <u>individual notice data that was available and that</u> 11:43:27
21 waiting for someone else to tell you what the		21 <u>would be the numerator, and we assume that we can</u>
22 methodology is and you apply it?		22 <u>reach approximately 30 percent with the individual</u>
23 A. We typically wait for someone else to tell		23 <u>notice.</u>
24 us what the methodology is.		24 <u>Then we would build a media plan to a</u>
25 Now, we might be consulted on if this is	11:40:44	25 <u>proxy target audience that reflects likely</u> 11:43:41
	Page 62	Page 64
1 the methodology, how practical is it for you to do	11:40:44	1 <u>purchasers of the product, likely class members, and</u> 11:43:45
2 that? If this is the methodology, how much is it		2 <u>we would build a media plan that got us up to</u>
3 going to cost you to apply it?		3 <u>70 percent or higher.</u>
4 And it would not be uncommon for whoever		4 <u>If we can't come up with a reasonable</u>
5 it was, the Court or the settling parties, to say,	11:40:54	5 <u>denominator, if it could be wildly different, then</u> 11:43:59
6 Oh, no, that's too expensive, we want to make this		6 <u>we often will rely on the media plan on its own to</u>
7 easier, and then apply a more lax methodology.		7 <u>reach at least 70 percent of the target audience.</u>
8 But we're not the ultimate decision maker		8 <u>And so that I don't know because we</u>
9 for this. It would be the Court or the parties.		9 <u>don't -- we haven't done the process of getting</u>
10 Q. I get it. So whether or not someone falls	11:41:11	10 <u>whatever data is available what exactly this would</u> 11:44:18
11 within the definition of "suffered a loss" is going		11 <u>end up being, but that's how we get there.</u>
12 to be decided either by the Court or by the parties,		12 <u>At the very least, we would rely on the</u>
13 they will provide that information to you and then		13 <u>media plan to say that we've reached X percentage</u>
14 you effectuate that?		14 <u>of -- once again, it's a proxy audience. It could</u>
15 A. Yeah, we get the criteria and then we	11:41:24	15 <u>be cryptocurrency purchasers. We narrowed it as</u> 11:44:36
16 apply it, that's right.		16 <u>best we can. And that's what the Courts typically</u>
17 Q. Understood. Thank you.		17 <u>rely upon even, though it's imperfect.</u>
18 And as of right now, you don't know how		18 <u>Q. Are you offering an opinion in this report</u>
19 many people are in the putative classes; is that		19 <u>that you can provide notice to 70 to 95 percent of</u>
20 right?	11:41:45	20 <u>the putative class members?</u> 11:44:58
21 A. Correct.		21 <u>A. In terms of doing a media plan that</u>
22 Q. On paragraph 46 of your report, I think		22 <u>reaches a reasonable proxy target audience, yes, I</u>
23 it's the last two sentences of paragraph 46, you say		23 <u>am.</u>
24 [as read]: It is reasonable to reach between 70 and		24 <u>Q. Even though you don't know whether there's</u>
25 95 percent. If the Court certifies the Classes	11:42:12	25 <u>10,000 or 50 million class members?</u> 11:45:23
	Page 63	Page 65

1 A. Correct. It's a percentage. It's a 2 percentage, not a raw number of people that are 3 reached.	11:45:27	1 rule. So, you know, that's -- my job is to come 2 forward and tell the Court that we're in compliance 3 with Rule 23, and I would be lying if I came in and 4 made up some reasons why we couldn't do it.	11:47:56
5 Q. And you don't know where the class members 6 are located? 11:45:35		5 I mean, there's very clear opinions going 6 back to the Eisen decision back in the '70's that 7 cost isn't an issue and it shouldn't be an issue.	11:48:15
8 Now, we may make some determinations based 9 off any available data that will lead us to 10 different areas. I mean, we've done many plans that 11 are geo targeted or geared, so we add weight to a 12 particular geographic area if that's what needs to 13 be done here. If we have to go broad in scope, we'd 14 have to go broad in scope.	11:45:49	8 So that's the primary reason, I don't want 9 be overturned on -- you know, if somebody objects or 10 there's an appeal. 11:48:30	
15 Q. Right. But as you sit here right now 16 offering an opinion that you can provide notice to 17 70 to 95 percent of the class members, you don't 18 know where those class members are? 11:46:09		11 But, look, I'm going to be honest, 12 individual notice to the extent we can get the data 13 is typically better in terms of getting a response. 14 But, again, I've done dozens and dozens of cases 15 that relied either substantially or exclusively on 16 media notice. 11:48:49	
19 A. Correct.		17 Q. Is notice more or less important in cases 18 with potentially high numbers of opt outs?	
20 Q. You don't know how many countries they 21 live in? 11:46:18		19 A. To me, it's all the same.	
22 A. Exact number, no.		20 Q. Is it the same for the class member who 21 might want to opt out? 11:49:23	
23 Q. You don't know how people purchased XRP, 24 all of the ways in which they purchased XRP?		22 A. I can't speak for an individual class 23 member. I just know for me, my job is to satisfy 24 Rule 23 in due process and then it's up to the class 25 members to decide whether they want to opt out or	11:49:37
25 A. I don't know all of the ways that people Page 66	11:46:29	Page 68	
1 purchased XRP; correct. 11:46:31		1 not or file a claim or whatever. 11:49:40	
2 Q. Have you ever defined a retention because 3 you did not think you could give adequate notice?		2 Q. And they can only do that if they obtain 3 the proper notice; is that right?	
4 A. Yes.		4 A. Yes. I guess if they weren't aware of it, 5 that's right, that's the only way they would know 6 they have a right to opt out. 11:49:52	
5 Q. Tell me about that. 11:46:51		7 Q. Over the course of your career, what's the 8 highest percentage of opt outs of a putative class 9 that you've seen?	
6 A. There have been situations where -- and 7 it's both plaintiff and -- it's been both plaintiff 8 and/or defendants -- where the parties didn't want 9 to do individual notice and asked me to come in and 10 say that a particular media plan was good enough.	11:47:10	10 A. I don't have that specific number. 11:50:06	
11 And I've declined because the rule very 12 clearly says individual notice to all class members 13 should be identified with reasonable effort.		11 Q. More or less than 20 percent?	
14 And so where I've been asked to say it's 15 too expensive or it would be too hard, but it really 16 wasn't too hard, I declined. 11:47:26		12 A. Twenty percent would be really unusual in 13 terms of an opt-out percentage.	11:50:32
17 Q. Why is there a preference for -- please, 18 go ahead.		14 I honestly can't sit here and say I 15 haven't worked on a project where it was that high. 16 It's possible that we've had an individual project 17 that had that high of opt out. It's typically way, 18 way less than . . .	
19 A. And, of course, I've been conflicted out. 20 I mean, that was one example, but I have declined 21 because of conflicts in the past, too, of course.	11:47:42	19 Q. Sorry, say that again? "It's typically" 20 what? 11:50:47	
22 Q. Sure.		21 A. No. It's typically much less than even a 22 tenth of a percent.	
23 Why is individual notice preferred to a 24 media plan?		23 Q. When you're offering the opinion that 24 notice here is going to reach 70 to 95 percent of 25 the putative classes, how can you offer a percentage	11:51:07
25 A. Well, I mean, technically, it's in the Page 67	11:47:54	Page 69	

1 without knowing the denominator? 11:51:12	1 use -- if we're going to do TV, which I don't think 11:54:06
2 A. So, again, it's based off of us -- if we 2 we would do here, but I don't know, we would look,	3 don't know the denominator, it's based off of us 3 we could use Nielsen data. Also, Comscore is
4 having a media proxy audience. 4 another company that we use for online data.	5 Q. And what type of data does GfK Mediemark 11:54:20
5 So when -- as a notice expert, I rely on 6 put out every six months?	6 the same data that every other notice expert in my
7 industry relies upon. And it's the same data used 7 They compile a wide array of demographic	8 by advertising agencies to target audiences. And 9 and what's called "psychographic" data on the
9 they also quantify in terms of group. 10 And so what we do is -- it's based off of 11 survey data. We get as close to a proxy audience as	10 consumer buying preferences.
11 we can in terms of a definition. Here, we could 11 And so it's, frankly, a little bit -- it's 11:54:39	12 find -- if the survey data includes people who 12 almost alarming how much data is there. It's based
13 bought this specific XRP product, we'd use that. It 13 off of survey data. We go in and we can come up	14 doesn't get that specific, but we can target all the 14 with the demographics of a target audience, race,
15 way down to people who purchased cryptocurrency. 15 geography, income level, home ownership, anything	16 that you could think would be in a census report in 11:55:01
16 We build a media plan that we can say 17 And then psychographic data is the media	17 reaches whatever percent we want to get to -- again. 18 usage habits of the target audience that's being
18 typically, at least 70 -- hitting that proxy 19 queried. So it could be -- it used to be which	20 magazines they bought, right? That's still there, 11:55:18
20 audience, and then that is a proxy for the class. 21 but not quite as common. But magazine readership,	21 done and that's what's been accepted in terms of 22 newspaper readership, Internet access, which
21 It's best practicable. That's what we've 23 websites are visited, how much TV people watch,	24 which programs. It's a wide array. And so we use
22 done and that's what's been accepted in terms of 25 that to build media plans for notice. 11:55:34	25
23 media plans.	Page 72
24 Q. What's a proxy audience?	
25 A. Well, again, the media survey data isn't 11:52:41	
Page 70	
1 going to be -- even if it's a well-known consumer 11:52:45	1 Q. And where does GfK get their data? 11:55:42
2 product, it's not going to have the exact class 2 A. It's based off of survey data that they	3 period. It may not have the exact details in a 3 administer.
3 period. It may not have the exact details in a 4 class definition.	4 Q. And how many people are surveyed?
5 So we're coming up with an audience of 11:52:57	5 A. I don't have that information right now. 11:55:54
6 people that is as close as we can to the classes as 6 Q. Do you know who is surveyed?	7 they're defined.
7 they're defined.	7 A. Specifically? I don't know who is
8 Q. And how would you define your media proxy 8 surveyed, no.	9 Q. Is that data limited to the United States?
9 audience?	10 A. Yes, it is. 11:56:13
10 A. In general or here? 11:53:14	11 Q. And what specific factors from the GfK
11 Q. Here.	12 data would you look for in order to create a media
12 A. Here, once again, we haven't built a media 13 plan here?	13 plan here?
13 plan yet, so I don't have a specific plan, but we 14 A. Like I said, we would look -- we would	14
14 would most likely target at least cryptocurrency -- 15 look into the available data in terms of how narrow	15
15 people who have purchased or expressed an interest 16 we could get -- you know, base our proxy audience	16
16 in cryptocurrency.	17 on. And then once we do that, all the data is
17 But, again, the survey data comes out 18 available to us.	18
18 every six months. I'd rely on my team if we could 19 And so my media team would then look --	19
19 do better or closer or something that's -- the 20 our job is to design an effective notice program in	20
20 parties all agree is a better representation, we 21 terms of reach, but also, to do it as efficiently as	21
21 would do it. But something along those lines.	22 possible. We're not going to buy media that we
22 Q. What survey data are you referring to?	23 don't need and be overly duplicative.
23 A. It's -- I always call it "MRI" because 24 And so it's a balancing act. We go in and	24
24 that's the old term. It's GfK Mediemark research	25 find the pieces of media that seem the best. I'm
25 data. That's our typical first source. But we 11:57:17	11:57:17
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1 just being hypothetical. Maybe it's Facebook ads is 2 the best that gets us right off the top the broadest 3 reach and then we go in and layer on top of that 4 additional pieces of media, online typically 5 nowadays, but also could be print, and get ourselves 6 up to whatever percentage that we need to be. 7 And so it's really -- I don't want to 8 call -- it's not a game but it's a trial and error 9 going in and finding out which pieces of media get 10 added in, give us the best bang for the buck. 11 Because some pieces of media are duplicative of each 12 other. And so even the fourth best piece of media 13 you may not use because it may duplicate exactly 14 what the first three pieces of media are doing. 15 Maybe the sixth best hits a unique audience and that 16 one's better. 17 So it's really that sort of building that 18 my media team will do.	11:57:20	1 purchased. 2 Q. How do you assign a percentage to the 3 specific type of media that this proxy audience may 4 view? 5 A. We don't assign the percentage. It comes 6 out of the research data and the tools that are used 7 to measure the usage of the data for our proxy 8 audience. So we don't pick it. It comes out. 9 So if our proxy audience is people who 10 purchased -- I've got Crystal Geyser water on my 11 desk. If it's people who purchased Crystal Geyser 12 water, then the research data will tell us, if we 13 buy a certain number of impressions on Facebook, 14 what percent of that audience it will reach. 15 And then as we layer in additional pieces 16 of media, whatever they may be, it's -- we don't 17 pick the numbers. It comes out of the data that we 18 use. 19 Q. You pick the factors that go into the 20 proxy audience?	11:59:55
19 Q. So are you looking to create a proxy 20 audience of XRP purchasers?	11:58:17	21 A. Yeah, definitely.	12:00:15
21 But I want to interject -- you don't even 22 have to ask me a question -- this isn't the only 23 media we would typically buy. When we're putting 24 together a good media plan, we want to be able to	11:58:04	22 That's right.	12:00:37
25	11:58:33	23 Q. And if there's an error in the process of 24 defining the proxy audience, then it could affect 25 whether or not class members receive notice?	12:00:52
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1 tell the Court that we're reaching a specific 2 percentage, usually 70 percent. 3 And so we build the media that will get us 4 to that 70 percent. But in addition to that, we 5 also may use media that may not be measurable but we 6 know is reasonable and intelligent to use depending 7 on any other information we may have. 8 So if we had information that the product 9 was marketed on specifically pieces of media, even 10 if those were not ones that we could measure in 11 terms of our reach, we would want to use those as 12 part of the media plan. 13 So it would be a multi-faceted plan. We 14 wouldn't just be -- I don't know what the right word 15 is -- we would just be tied to pieces that get us 16 our reach.	11:58:37	1 A. I mean, yes, to a certain extent. 2 I mean, we definitely want the proxy 3 audience to be as close as possible. Because that's 4 what it is, it's as close as possible. So we're 5 very rarely -- we're never going to have a proxy 6 audience -- we wouldn't call them the proxy audience 7 if they were ever exactly who the class member was, 8 yeah. 9 Q. As you sit here today, you haven't defined 10 a media plan for these putative classes; is that 11 correct? 12 A. That's correct. 13 Q. So you don't know what factors you would 14 use to identify a proxy audience?	12:01:25
17 Q. In order to create a proxy audience of XRP 18 purchasers, you have to understand who XRP 19 purchasers are; right?	11:59:10	15 A. Generally, but no, we haven't built a 16 specific plan. 17 Q. You don't know what websites that you 18 would post on?	12:01:36
20 A. Generally, yes.	11:59:40	19 A. Correct. 20 Q. Or other forms of media that you would use 21 in order to try and reach this putative class?	12:01:55
21 Q. It's fair to say, as you sit here today, 22 you don't know all of the different types of XRP 23 purchasers?		22 A. No. I mean, again, generally. But we 23 haven't gone through the process of actually 24 building a media plan.	12:02:08
24 A. That's right, I don't know all the 25 specific purchasers or the specific ways it was	11:59:51	25 Q. So you're assuming that once your media	12:02:16
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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript () was (X) was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney of any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: January 22, 2023

23
24 
25

ANRAE WIMBERLEY, CSR No. 7778